IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

C.P.(IB)/1388/MB/C-IV/2020
Under section 7 of the I & B Code, 2016
In the matter of

Intec Capital Limited
(L74899DL1994PLC057410)
... Financial Creditor
V/s.
Nirmiti Stampings Private Limited
(U28910MH1995PTC087295)
... Corporate Debtor

Order Delivered on: 01.12.2022

Coram:

Shri Manoj Kumar Dubey	Shri Kishore Vemulapaplli
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner	:	Mr. Vidit Divya Kumat, Advocate
For the Respondent	:	None present.

ORDER

Per: **Kishore Vemulapaplli, Member (Judicial)**

1. This is a Company Petition filed under section 7 of the Insolvency & Bankruptcy Code, 2016 **(IBC)** by **Intec Capital Limited** ("the Financial Creditor"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Nirmiti Stampings Private Limited** ("the Corporate

Debtor"). The Financial Creditor claiming a sum of Rs.2,68,48,732/- as on 30.06.2020. The date of default is 20.01.2018 which is said to be the debt and default.

Brief facts of the case: -

1. The Financial Creditor submits that, Intec Capital Limited is one of the leading Non-Banking Financial Institutions in India which commenced its operations in 1994. It is in the business of financing small and medium enterprises (SME) spread all across the country. The Intec Capital Limited is involved in business of building and nurturing long-term relationships with their stakeholders i.e. machinery manufacturers, customers that in turn, promotes sustainable growth.
2. The Corporate Debtor approached the Financial Creditor for a Business Loan of Rs.1,88,12,500/- (Rupees one crore eighty-eight lakhs twelve thousand and five hundred only) on 30.11.2011 for the purpose of business expansion. The Loan was sanctioned vide letter dated 30.11.2015 and the Loan Agreement was executed between the parties on 30th November 2015 with @ 14.25% interest. The Corporate Debtor executed a Demand Promissory Note in favour of the Financial Creditor on 30.11.2015. The Loan was disbursed on 21st December 2015 and 7th January 2016 after deducting collateral amount, processing fees and other charges etc. amounting to Rs.44,53,643/- to the Corporate Debtor which was repayable in 96 monthly instalments of Rs.3,29,484/-.
3. The Financial Creditor submits that, the Loan was granted/ sanctioned to the Corporate Debtor was taken against the mortgage of immovable

property at Baner Pune, Maharashtra-411045. The property was mortgaged by one Mr. Manoj Suresh Talegaonkar & Mr. Haresh Balkrishna Naik towards security for the loan facilities granted by the Financial Creditor to the Corporate Debtor. The Mortgage Deed was dated 30th November 2015.

4. The Corporate Debtor availed and enjoyed the credit facility, however, failed to repay the outstanding dues. The Financial Creditor issued several Notices to the Corporate Debtor demanding/ recalling the Corporate Debtor to repay the outstanding dues. The Financial Creditor also sent a Loan Recall Notice and invoke arbitration by way of Legal Notice dated 12th January 2018. The arbitral proceedings culminated in an award dated 28th December 2018.

Findings

5. Heard the Counsel for the Financial Creditor and perused the material on record. The Corporate Debtor did not file any reply, the claim of the Financial Creditor remains unchallenged. The matter was first listed on 19.01.2021 wherein the Court Notice was issued and directions also given the Corporate Debtor to file their response. On 16.03.2021, this Bench orders for publication in two daily leading newspapers, despite paper publication which was made erroneously twice i.e. on 10.03.2021 and 11.03.2021 without the order of the Court, the Corporate Debtor neither appeared nor file reply in rebuttal. Hence, the Corporate Debtor was set *ex-parte* on 13.04.2022.

6. The Hon'ble NCLAT in ***Vipul Vs. Techo Industries in Company Appeal (AT) 470/2022***, held that it is clear in case the record of information utility shows that there is a debt which is in default, the Adjudicating Authority or the Appellate Authority are not required to further examine the record maintained by the information utility, more so when the record of the information utility is deemed authenticated and no dispute of refutation of said record has been done by the Corporate Debtor earlier.

7. On perusal of Petition in the present case, this Bench observed that the NeSL Report filed by the Financial Creditor along with Petition reflects that the date of default of the Account of the Corporate Debtor is 15.01.2018 and the Petition was filed on 27.11.2020, which is well within the period of limitation i.e. three years prescribed under the Limitation Act, 1963.

8. The Financial Creditor successfully proved the existence of the debt and default and the debt. The petitioner has also suggested the name of proposed Interim Resolution Professional in part-3 of the Petition along with his consent letter in Form-2. Thus, the present Company Petition satisfies all the necessary requirement for admission.

9. Under these circumstances, this tribunal is of the considered opinion that the above company petition is liable to be admitted and accordingly the same is admitted by passing the following:

ORDER

This Application being C.P. (IB) No. 1388/NCLT/MB/C-IV/2020 filed under Section 7 of I & B Code, 2016, filed by Intec Capital Limited, Financial Creditor/ Applicant against Nirmiti Stampings Private Limited, Corporate Debtor for initiating Corporate Insolvency Resolution Process is admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

   a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

   b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

   c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

   d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to-

a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
b. a surety in a contract of guarantee to a Corporate Debtor.

IV. That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.

VI. That this Bench appoints Mr. Udaykumar Bhaskar Bhat, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P01425/2018-19/12234], Email: udaybhat2805@gmail.com as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

VII. The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing Public Notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

VIII. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Pune, for updating the Master Data of the Corporate Debtor.

IX. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution

Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-	Sd/-
Manoj Kumar Dubey	**Kishore Vemulapalli**
Member (Technical)	**Member (Judicial)**
01.12.2022	